

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

HUSCH BLACKWELL LLP  
750 17<sup>th</sup> Street NW, Suite 900  
Washington, DC 20006

Plaintiff,

v.

WASHINGTON METROPOLITAN AREA  
TRANSIT AUTHORITY  
600 5<sup>th</sup> Street NW  
Washington, DC 20001

Serve: Patricia Y. Lee, Esq.  
General Counsel  
Washington Metropolitan Transit Authority  
600 5<sup>th</sup> Street NW  
Washington, DC 20001

Defendant.

Civil Action No. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiff Husch Blackwell LLP (“Husch Blackwell”), states the following for its  
Complaint against Defendant Washington Metropolitan Area Transit Authority (“WMATA”):

**NATURE OF ACTION**

1. This action seeks declaratory and injunctive relief requiring WMATA to produce records relating to the Dulles Silver Line Extension Project in accordance with WMATA’s Public Access to Records Policy (“PARP”). Husch Blackwell submitted a written request for the records on May 7, 2019. As of the date of this action, WMATA has neither produced the records nor provided a rationale for withholding them.

### **PARTIES**

2. Husch Blackwell is a Delaware limited liability partnership with its principal places of business in Missouri.

3. WMATA is a multi-jurisdictional entity existing in Virginia, Maryland, and the District of Columbia. WMATA was created and is governed by the Washington Metropolitan Area Transit Authority Compact of 1966 (“the WMATA Compact”), which has been consented to by Congress and adopted by Virginia, Maryland, and the District of Columbia. Public Law No. 89-744 (Nov. 6, 1966), 80 Stat. 1324 (1966); Va. Code §§ 33.2-3100; Md. Code, Transp. § 10-204; D.C. Code § 9-1107.01. WMATA has the capacity to sue and be sued in its own name.

### **JURISDICTION AND VENUE**

4. This Court has subject matter under section 81 of the WMATA Compact, which provides that the United States District Courts shall have original jurisdiction of all actions by or against WMATA. Va. Code § 33.2-3100 (WMATA Compact, Article XVI § 81).

5. This Court has personal jurisdiction over WMATA because WMATA has continuous and systematic contacts in the Eastern District of Virginia.

6. Venue is proper under 28 U.S.C. § 1391(b)(1). WMATA is deemed to reside in the Eastern District of Virginia.

7. This case involves an actual controversy. This Court has the power to declare the parties’ rights under 28 U.S.C. § 2201(a).

### **FACTUAL BACKGROUND**

8. WMATA adopted the PARP in accordance with the WMATA Compact. A copy of WMATA’s PARP is attached as **Exhibit A**.

9. By letter dated May 7, 2019, submitted in accordance with PARP, Husch Blackwell requested that WMATA produce records relating to Phase II of the Dulles Silver Line Extension Project. The May 7 PARP request sought “[a]ll reports, memoranda, presentations, and other similar documents completed after June 1, 2018 that reflect or summarize the results of testing, evaluation, analysis, or assessment of the concrete turnout ties installed on the Phase II Dulles Silver Line Extension project.” A copy of the request is attached as **Exhibit B**.

10. Under PARP, WMATA was required to respond to the May 7 PARP request and to produce any responsive documents no later than June 19, 2019.

11. Despite this deadline, WMATA has not produced any documents responsive to the May 7 PARP request. WMATA has not provided an estimate of when responsive documents would be produced, a description of the responsive documents, or any rationale that may be available for withholding responsive documents.

12. Husch Blackwell has a right of access to and copies of the documents responsive to the May 7 PARP request. Upon information and belief, there is no legal basis for withholding them.

13. Husch Blackwell is deemed to have exhausted its administrative remedies because WMATA failed to timely respond to the May 7 PARP request.

**WHEREFORE**, Husch Blackwell respectfully requests that the Court order WMATA to produce the records responsive to its May 7 PARP request; order all search and duplication fees waived; order WMATA to pay the reasonable attorney’s fees and litigation costs incurred in pursuing this action; and grant such other and further relief that may be appropriate.

Dated: July 1, 2019

Respectfully submitted,

/s/ Brian Waagner

Brian P. Waagner (VSB No. 37202)

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